

1 Mark R. Thierman, Nev. Bar No. 8285  
2 mark@thiermanbuck.com  
3 Joshua D. Buck, Nev. Bar No. 12187  
4 josh@thiermanbuck.com  
5 Leah L. Jones, Nev. Bar No. 13161  
6 leah@thiermanbuck.com  
7 Joshua R. Hendrickson, Nev. Bar No. 12225  
8 joshh@thiermanbuck.com

**THIERMAN BUCK LLP**

7287 Lakeside Drive  
Reno, Nevada 89511  
Tel. (775) 284-1500  
Fax. (775) 703-5027

9 *Attorneys for Plaintiffs*  
10 *and the Putative Classes*

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 CHRISTOPHER NELSON, on behalf of  
14 himself and all others similarly situated,

15 Plaintiff,

16 vs.

17 WAL-MART ASSOCIATES, INC., and  
18 DOES 1 through 50, inclusive,

19 Defendant(s).

20 I, Donna Karsten, hereby declare and state as follows:

21 1. I am over the age of eighteen. I am a current resident of Sparks, Nevada and I  
22 have been a resident during all times relevant to this action.

23 2. I have personal knowledge of the facts and circumstances set forth in this  
24 declaration. If I was called as a witness, I would and could competently testify to the matters set  
25 forth herein.

26 3. I have been working for Wal-Mart as a non-exempt hourly paid warehouse worker  
27 since on or about July 22, 2006 to the present.

Case No.: 3:21-cv-00066-MMD-CLB

**DECLARATION OF DONNA KARSTEN**

1       4. When I was first hired, I understood I would be paid the agreed upon hourly rate  
2 for all work activities I performed for Wal-Mart. I am currently making approximately \$27.10  
3 per hour for my work in the dry section as a Hauler.

4       5. I am regularly scheduled to work ten hours a day, four days per week, from 4:30  
5 a.m. to 10 p.m. We were also scheduled for an unpaid half-hour lunch. Wal-Mart kept track of  
6 my hours worked on-the-clock so they would have a record of all the hours that I was clocked-  
7 in to their timekeeping system.

8       6. Wal-Mart's food distribution warehouses are divided into "dry" and "cold"  
9 sections. I currently work in the dry section of the warehouse and also occasionally work in the  
10 cold section.

11       7. In or around June or July of 2021, Wal-Mart changed its policies and practices  
12 and began instructing some employees, including me, to begin clocking in at the front of the  
13 warehouse as opposed to our assigned stations, which had previously been the requirement. This  
14 change has helped avoid some of the off-the-clock work described below, and I believe that Wal-  
15 Mart made the change in response to this lawsuit. Despite changing its policies, Wal-Mart never  
16 paid us any wages or otherwise compensated us for all the time we had already spent working  
17 off-the-clock prior to their change in policy. For the sake of clarity, the following paragraphs  
18 describe my work experience prior to Wal-Mart's recent change in procedure.

19       8. Regardless of whether we were working in the dry or cold section of the  
20 warehouse, Wal-Mart required all non-exempt hourly paid food distribution warehouse  
21 employees to be at our assigned station and ready to work at the start of our regularly scheduled  
22 shift. Wal-Mart did not allow us to clock-in to the timekeeping system until immediately before  
23 our scheduled shift start time. In order to be ready to work at the shift start time, and before  
24 clocking in, Wal-Mart required us to complete work activities off-the-clock without  
25 compensation prior to the start of our shift.

26       9. For shifts that I worked in the dry section, I was first required to retrieve required  
27 equipment, such as a scan gun and PE or PC (electronic pallet jack), before driving my pallet  
28 jack over to the dock to clock in at the start of my regularly scheduled shift. I was required to

1 scan my card in order to check out a PC, and upon information and belief, I believe that Wal-  
2 Mart maintains an electronic record of the times that I check out my equipment prior to the start  
3 of my shift. The equipment that I pick up at the beginning of the day is necessary for me to do  
4 my job, and I would not be able to do my job without it. All hourly paid dry section warehouse  
5 workers in my position use this equipment throughout the workday to haul and move products  
6 as well as to inventory and label products for ultimate distribution to Wal-Mart's retail stores. If  
7 we didn't have the equipment, we would not know what products need to go where, would not  
8 know where products are located, would not be able to track where the products are or where  
9 they are going, and we would not even be able to move the products since they are located on  
10 large pallets that we can't move without the pallet jack.

11 10. I estimate that I regularly retrieved my equipment approximately ten (10) minutes  
12 prior to my scheduled shift for each and every day that I worked in the dry section, so that I  
13 would have sufficient time to (i) check out the equipment and (ii) proceed to my station for my  
14 start-up meeting at the start of my shift. Wal-Mart did not compensate us for the time spent  
15 performing this work. This work was in addition to my regularly scheduled time, and as a result  
16 I regularly worked overtime over 40 hours in a workweek and over 80 hours in a pay period.  
17 Upon information and belief and through my own observations, every hourly paid employee who  
18 I work with also worked overtime off-the-clock prior to the start of our shifts for Wal-Mart  
19 performing the same or similar work as described above.

20 11. Upon information and belief and through my own observations, employees who  
21 regularly work in the cold section are similarly required to retrieve required equipment as well  
22 as put on personal protective equipment (PPE)—i.e., freezer gear—prior to the start of their  
23 regularly scheduled shift. The cold section is the freezer/refrigerator section of the food  
24 warehouse where freezer and refrigerated items are distributed. Upon information and belief and  
25 through my own observations, Wal-Mart requires employees assigned to the cold section to  
26 perform this work off-the-clock before clocking in and does not compensate cold section  
27 employees for the time spent performing that work.

28

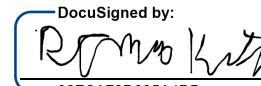
1       12. Upon information and belief and through my own observations, Wal-Mart  
2 requires all employees who work in the cold section to wear “cold store clothing” or “freezer  
3 wear” as PPE to prevent workplace illness and injury due to the cold environment. Specifically,  
4 Wal-Mart required me and all other employees who work in the cold section to don the following  
5 PPE prior to the start of our respective shifts: RefrigiWear insulated bibs; RefrigiWear thermal  
6 jacket; Thermal hooded sweatshirt; Stocking hat; and Wool socks. Because of the low  
7 temperatures, cold section warehouse workers cannot perform our jobs safely and/or effectively  
8 without donning this PPE.

9       13. Upon information and belief and through my own observations, Wal-Mart is  
10 aware that its non-exempt, hourly paid warehouse workers were performing the work described  
11 above off-the-clock without compensation prior to the start of our shifts because Wal-Mart  
12 required all employees to perform this work, Wal-Mart supervisors watched us perform the work,  
13 and Wal-Mart nonetheless did not let us clock in until after the work was completed.

14       14. I want to be paid for all the time I spent completing required job duties off-the-  
15 clock prior to the start of my regularly scheduled shift. When I agreed to work for Wal-Mart, I  
16 agreed to be paid my regular or applicable overtime rate for each hour that I performed work  
17 activities. I never agreed to work for free. By forcing me to complete my pre-shift work activities  
18 off-the-clock, Wal-Mart has required me to work without receiving the wages that were agreed  
19 upon when I took this job.

20       I have read the forgoing statement consisting of this page and three (3) others and declare  
21 under the laws of the United States of America and the State of Nevada that the foregoing is true  
22 and correct.

23 Executed this <sup>22</sup> day of October 2021, in Sparks, Nevada.

24       DocuSigned by:  
25         
26       32FCA79D9835A4DB...  
27       Donna Karsten  
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